

Montana Department of  
Public Health & Human Services

Section:

**Serving the Family**

**CHILD CARE**

Subject:

**Legally Unregistered Providers**

**Supercedes:** **Child Care 6-2 (9/1/06)**

**References:** **Section 52-2-704(2)(d-g) through 52-2-741, MCA**  
**Section 11.14.229, 37.95.101-102, 37.95.601-602, 37.95.630, ARM**  
**Section 6-7 of the State Plan and 9841 CFR**

### **General Information**

A Legally Unregistered Provider (LUP) or Legally Unregistered In-home provider (LUI) is a provider certification category that is used for state payment purposes only. LUP or LUI providers are family members, friends or neighbors, who provide child care in a more informal manner than licensed or registered providers. LUPs and LUIs are generally matched to families on a one-to-one basis.

***A Legally Unregistered Provider may care for no more than two unrelated children or any member in a sibling group at one time.***

NOTE: A LUP who cares for more shall be referred to the Child Care Licensing Program for an “over-numbers” violation.

A family may choose a relative to provide care. If the relative lives in the child’s home, that person must meet the following criteria:

- ❑ A relative caregiver who lives in the child’s home must be related to the child in one of the following ways:
  - Aunt or Uncle;
  - Grandparent; or
  - Great Grand Parent.

### **In-home relative care**

The relationship must be verified through marriage and birth certificates. No other household member qualifies as a child care scholarship caregiver.

- ❑ The relative in-home caregiver may not be part of the child’s TANF Cash or Best Beginnings Child Care Scholarship assistance unit.
- ❑ The relative in-home caregiver must qualify to be a legally unregistered in-home provider of child care.

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## Qualifications

Applicants for status as an LUP must meet all of the following conditions:

- ☐ The provider must be age 18 or older.
- ☐ The provider must be mentally and physically capable of providing child care that meets safety, health, and other basic child care requirements and standards.
- ☐ The provider must not have a substantiated report with Child/Adult Protective Services involving harm, physical abuse, or sexual abuse to children or adults.
- ☐ The provider must not have a criminal conviction involving harm, physical abuse, or sexual abuse to children or adults.
- ☐ The provider must not be included in the parent's TANF cash assistance payment.
- ☐ The provider must list an eligible family for whom the provider will provide care in their application.
- ☐ The provider must not provide care while home schooling.

## Effective Date for Payments to LUPs

Both the parent and the LUP/LUI provider must be determined eligible to participate in the Best Beginnings Scholarship program. If the background checks reveal:

- no substantiation of abuse or neglect by the applicant;
- no criminal convictions concerning violence or sexual crimes perpetrated against children or other persons; and
- no other non-compliance issues.

The effective date for a Legally Unregistered Provider will be the date their completed application is received at the CCR&R office or the date the parent is determined eligible for a Best Beginnings Child Care Scholarship, *whichever is later*.

## Application Process

1. The applicant contacts the local CCR&R.
2. The CCR&R gives the applicant an application to become an LUP. The name of the form is Legally Unregistered Provider and/or In-Home Care Application for State Payment Only (DPHHS-HCS/CC-087).
3. The application includes the following information:

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- The names and physical addresses of both the parent and the provider. (If the parent and the provider live at the same residence, the rules for in-home relative care apply.)
  - The names and birth dates of all of the children in care.
  - The names, birth dates and social security numbers of all adults in the provider's household. (All of these individuals must submit to background checks).
  - Attestations of eligibility.
  - A health and safety checklist completed by the LUP/LUI.
- The CCR&R worker shall direct the provider and parent to jointly complete the *Health and Safety Checklist*. Both the parent and provider sign this form indicating that basic health and safety considerations have been addressed.
4. The applicant and any adult outside the child's immediate family, signs *Legally Unregistered Provider Release of Information Criminal/Protective Service Background Checks* (DPHHS-HCS/CC-077) form. This form is used to obtain information from the Montana Department of Justice and Montana Child Protective Services and Adult Protective Services and Tribal Child Protective Services if applicable.
  5. Once the *Legally Unregistered Provider and/or In-Home Care Application for State Payment Only* (DPHHS-HCS/CC-087) has been completed and returned to the CCR&R, the applicant has 30 days to initiate the return of the remaining supporting information, excluding background checks.
  6. The applicant and any adults residing in the household must complete a *Statement of Health* (DPHHS-HCS/CC-127) form attesting to the fact that the health of each provider is adequate to meet the demands of the care being provided. In some cases the answer "yes" will require an evaluation or statement for a physician or other appropriate professional before an approval of the application can be finalized.
  7. The applicant and the parent must complete the *Medication Administration Attestation* (DPHHS-HCS/CC-088) stating the provider agrees to the procedures for Medication Administration.

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### **Background Checks**

Background checks are required for the applicant and all adults living in the provider's household. Upon initial application, a comprehensive background check is completed based upon the individual's place of residence since the time they were 18 years old.

Background checks need to be updated on a yearly basis if the LUP/LUI continues to provide care. When a provider is completing the annual renewal of their LUP/LUI payment number, a Montana name based check must be repeated. This process provides assurance that the LUP/LUI has maintained a clean record during the previous year. There is no need to repeat a fingerprint check as long as the LUP/LUI maintained residence in Montana.

### **Montana Name Based Background Check Process**

The CCR&R fills out a *Criminal History Check* (DPHHS-HCS/CC-079) form and a *CPS and APS Record Check* (DPHHS-HCS/CC-078) form.

#### **The CPS and APS record check request is sent to:**

Child and Family Service Division  
Centralized Intake  
PO Box 8005  
Helena, MT 59620-8005

Whether there is a record or no record, the results will be forwarded to the Early Childhood Services Bureau's LUP evaluating official for final determination. The ECSB will notify the CCR&R agency whether to approve or deny the LUP application.

#### **The Montana name based criminal history check is sent to:**

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The Early Childhood Services Bureau

PO Box 202925

Helena, MT 59620-2925

The ECSB will conduct the name based background check and return the results to the CCR&R on the yellow copy of the request form.

**Tribal  
Background  
checks**

If an applicant indicates that they have lived on a reservation, the CCR&R LUP worker will send a request to the named reservation for a criminal and Child Protective Service background check. The Evaluating Official will then follow up on the information as part of the application process.

**Out-of-State  
Background  
Check Process**

If applicants or household members have lived outside of Montana at any time in their lives since turning 18, they must obtain an out of state criminal history records check. There are three options for completing this process.

**FBI-  
Nationwide  
background  
check - \$29.25**

**Western  
Identification**

1. The applicant may contact the state or states in which they have lived to obtain the appropriate background check. The applicant will then provide that information directly to the Early Childhood Services Bureau or CCR&R agency.
2. The applicant may elect to have an FBI fingerprint background check completed for a cost of \$29.25. This check covers all 50 states and territories.
3. The applicant may elect to have a Western Identification Network (WIN) fingerprint check completed if the applicant has lived in ONLY any of the following states, Alaska, Idaho, Montana, Nevada, Oregon, Utah, and Wyoming. The cost of a

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**Network (WIN)  
background  
check \$10.00**

WIN background check is \$10.00. (Individuals who have lived in any other location must complete the FBI record check mentioned above).

**Fingerprint  
process**

The applicant contacts their local CCR&R to obtain a Department of Justice (DOJ) fingerprint card. Fingerprints *must* be taken using the Department of Justice card, any other fingerprint card will be returned unprocessed. All of the information on the fingerprint card must be filled out before the fingerprints are taken. Once the applicant obtains the DOJ fingerprint card, he/she can go to any local law enforcement office to have fingerprints taken or check with the local CCR&R, as some have fingerprint capability on site.

If fingerprints are smudged and/or unreadable, they will be rejected and returned to the ECSB. When this happens, the proper CCR&R agency is notified that a second set of prints are required. There is no additional charge required by DOJ for reprocessing a second set of prints. If a second set of fingerprints are rejected and sent back to the ECSB, then a letter along with a legal attestation will be sent directly to the applicant. The attestation is a form that the parent and the provider sign in front of a notary showing that the parent has been apprised of any criminal background, if any, that the provider might have. The proper CCR&R agency will be notified that a follow-up has been requested and when the attestation has been received by the LUP Program Supervisor.

Once the Department of Justice fingerprint card is complete and the prints have been taken, the applicant must send the card *and* a check or money order made out to the **Montana Department of Justice** in the amount of:

- \$29.25 for an FBI background check, or
- \$10.00 for a WIN background check, to:

ECSB LUP Evaluating Official  
P.O. Box 202925

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Helena, MT 59620-2925

OR - give them to the CCR&R to be forwarded to the evaluating official in Helena. The evaluating official will then forward the fingerprint card and fee to the Montana Department of Justice.

Once the background check is completed, the Department of Justice will return the results to the ECSB. The ECSB will in turn notify the CCR&R of the results.

#### **Out-of-State CPS Checks**

The applicant is responsible for contacting the out of state equivalent of the Montana CPS office for a copy of their record check. They can obtain phone numbers by contacting the criminal office of each state by using the Montana DOJ list of Fingerprint Identification Units. In addition, the Evaluating Official has a copy of the National Directory of Youth & Families Services, which contains phone numbers for counties and states throughout the nation.

Forward all out of state CPS record check results to the ECSB Evaluating Official in Helena.

If the applicant is unable to obtain the needed information, they should be directed to document all attempts to reach the correct agency. The CCR&R worker will also document any attempts made on behalf of the applicant to obtain an out of state CPS check.

If the applicant is unsuccessful in reaching a person or department who can assist them, please confer with the Evaluating Official in Helena as it may not be possible to complete this process

#### **Enter results in CCUBS**

The CCR&R agency must enter the results of all background checks in CCUBS on the Person Montana screen, as well as, indicating that the background check process has been finalized

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### **Application and Approval/ Denial Process**

If the applicant passes all background checks and both the parent and provider otherwise meet the eligibility criteria for the LUP/LUI program the CCR&R worker will approve the application on the License Screen in CCUBS. This triggers an alert to the LUP supervisor who reviews the worker's approval and finalizes the process

Applications will be denied for the following reasons:

1. A background check reveals a substantiation of abuse or neglect on the part of the applicant.
2. A background check reveals a conviction of a crime involving violence or sexual abuse against a child or other person.
3. The parent and provider reside at the same residence and the proposed caregiver is not an approved relative caregiver.
4. A background check reveals an on-going problem with drug or alcohol dependency that may present a danger to children in care.
5. A background check reveals an on-going problem with mental or physical illness that may present a danger to children in care.
6. The applicant fails to provide all necessary documentation needed to determine eligibility within the 30-day time limit.
7. The parent is determined to be ineligible for a Best Beginnings child care scholarship.
  - a. When a parent loses eligibility the worker should terminate the LUP/LUI provider the date the parent is no longer eligible.
  - b. When a parent becomes eligible again the worker should contact the ECSB LUP Supervisor to review the LUP/LUI provider and a determination will be made if the LUP/LUI provider will need to reapply.

When the application for Legally Unregistered Provider status is denied, the CCR&R worker will enter the status as denied on the License Tracking and Approval Screen in CCUBS. This action will generate an alert to the LUP supervisor for final approval. Once the supervisor has approved the denial a notice will be generated by the CCUBS system informing the applicant of the denial and of their rights



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to a Fair Hearing.

**CCR&R  
Procedure and  
CCUBS  
Process**

When the CCR&R office receives a *Legally Unregistered and/or In-Home Provider Application for State Payment Only* (DPHHS-HCS/CC-087) form requesting approval as a legally unregistered or in-home child care provider for state payment purposes, the CCR&R worker will:

1. Review the application for completeness of information
  - a. Enter the applicant on the **Person** screen in CCUBS, repeat for all other adult household members. Complete the following tabs: Names/Other IDs, General, and Addresses.
  - b. Enter the background checks you are initiating on the **Person Montana** screen. Enter the type, source, status (“Initiated/Requested”), and the date the background check was initiated.
  - c. Enter the Orientation Date and Statement of Health on the **Person Montana** screen on the Information tab.
  - d. On the **Provider** screen, enter the payment method and provider rates.
 

**NOTE:** If the provider is an LUI, the payment method must be “Parent”.
  - e. On the **Provider Montana** screen enter any other adults on the provider staff tab.
  - f. On the **License Tracking and Approval** screen enter the application date and an LUP status as “pending”. Associate yourself as the worker with the license.
2. Complete the CPS/APS and criminal records check to determine if the applicant has any substantiated child abuse/adult abuse and/or neglect incidents or has been involved in crimes that resulted in harm to people.
  - a. On the **Person Montana** screen background check tab, change the status to “finalized”. Enter the end date as the date the results were received and enter the results (no record, no disqualifying record, disqualifying record exists,

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etc) for each background check that was completed. Once this information is complete, check the “cleared investigation” box.

3. Complete the approval process on the ***License Tracking and Approval*** screen.
  - a. Enter all dates and approve the LUP. Case note who the family is that the LUP is caring for.
4. Inform providers that if they wish to care for more than two children of different families they must become registered.
5. Inform applicants that they will not be approved until the parents of the children they are applying to care for have been determined eligible for subsidy.
6. Inform the applicant that they will be responsible to negotiate payment with the parent(s) if the applicant is denied.
7. Provide related payment process information so the provider knows what to do in order to receive payment for the children who have been certified to receive child care services.
8. Inform the provider they must attend, within sixty days of the effective day of the approval, a child care provider orientation offered by the CCR&R on fire, safety, immunization, and health records of each child in care.

NOTE: It may be beneficial for the applicant to be offered the opportunity to attend orientation during the period background checks are being completed. This will give them some extra time to get this done and reduce the incidence of payment numbers being terminated because an LUP provider failed to complete orientation within 60 days of approval.

- a. On the ***License Tracking and Approval*** screen enter the date the applicant attends orientation.
- b. An applicant must attend orientation within 60 days from the date the payment number is approved. If an applicant terminates and re-applies they must attend Orientation again. (The LUP Supervisor at the ECSB may make exceptions on a case-by-case basis. If an exception is made the LUP Processor must case note this exception).

## Orientation

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**NOTE:** If a person terminates prior to the 60 days in which they are required to attend Orientation and they reapply at a later date, their application will not be approved until they attend orientation. Once they attend orientation the application date is the date they attended orientation.

### **Immunization**

Children in LUP/LUI care are required to have immunizations except:

- If the child is being cared for by an approved relative (grandparents, great-grandparents, aunt or uncle)
- If the child is being cared for in their own home
- If the child has a medical condition that contraindicates immunization

If the parent is claiming exemption, they will need to fill out the LUP/LUI *Immunization Waiver* form (HCS/CC-080).

### **Recertification**

All current Legally Unregistered Providers will receive one letter from the CCUBS system or CCR&R six weeks before their period of certification ends, reminding them that they need to renew their certification. This will be sufficient notice to Legally Unregistered Providers that their renewal time is near.

When a provider is completing the annual renewal of their LUP/LUI payment number, a Montana name based check must be repeated. This process provides assurance that the LUP/LUI has maintained a clean record during the previous year. There is no need to repeat a fingerprint check as long as the LUP/LUI maintained residence in Montana.

### **Mandated Reporters**

All Legally Unregistered Providers are mandated reporters of child/adult abuse and neglect. See Confidentiality in Section 1-9, as outlined in this manual for further information.

### **Substitute Care Giving**

All Legally Unregistered Providers are subject to the rules for substitute care giving as related in Provider Overview, as outlined in Section 1-8 of this manual.

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**Parent Loses  
Eligibility**

In the event that the family, which the LUP/LUI is providing care for, loses eligibility for a child care scholarship, the LUP/LUI license shall be terminated to the date that the family lost eligibility.

If the family becomes eligible once the LUP/LUI license has been terminated, the CCR&R LUP Specialist should contact the ECSB LUP Supervisor to determine whether the LUP/LUI must reapply or if the license can be re-approved.